

Law and Business Offices of

GLEN E. FULLER

245 N. VINE ST., #608
SALT LAKE CITY, UTAH 84103

801-355-5696

June 27, 1992

Mr. Gary Mullard, Pres.
Northern Stone Supply, Inc.
P.O. Box 247
Oakley, Idaho 83346

Dear Gary:

Since our meeting with members of the PVHA during their cattle drive on Wednesday, June 17, I have had occasion to assess the entire situation and the respective situation of your operations and that of the cattle association. After reviewing the history of our operations in Rock Canyon since the fall of 1954, I quite frankly am disturbed and disappointed by recent events.

To begin, the 75 acres in our placer and millsite claims contain some of the poorest grazing lands to be found anywhere. And as for driving cattle into the canyon from the lower lands, the whole hillside (including most of our 75 acres) from Fisher Canyon to Duncan Canyon is so open that there should be no problem of interference with the activities of both cattle and quarry operations. The problem, of course, is the Dugway Road, which I built.

Until the Dugway Road was blasted out of solid rock, the PVHA used the old logging trail on the east side of Rock Canyon, and later, after the drift fence was put above our present quarries, a gap was put in that fence to facilitate livestock movement. As for the Dugway Road, it cost several thousand dollars to construct at that time. So, when several members of the PVHA approached me after it was built and asked if I would permit them to drive their cattle over that road since it was much easier to travel that way, I told them that I would allow them to use the road for that limited use--and that is what has happened on a year-to-year basis since then (except for one year, which I shall tell you about later).

At no time has the PVHA paid me--or offered to pay--for any road improvements on any roads on our claims or for work on the road from the end of the County Road to our quarries, even though their

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use of the latter road (including their many hunters) would exceed our usage. But the real point of bringing forth this matter centers around the issue of how much they expect us to give versus how little they are willing to contribute or concede in order for everyone to get along.

This whole matter struck home real hard when, during the cattle drive, the statement was made that PVHA had acquired an easement or right of way by 21 years of use. What was meant by the statement at first appeared to be a general claim, but it only took a few minutes to figure out that the claim was being made as to the use of the Dugway Road--and there is no way that I will concede the point. In fact, I view the claim as an insult and a slap in the face as the culmination of what I always thought was a friendly relationship.

An easement (right-of-way) can be established in Utah by 20 years of continuous, adverse usage. Twenty years of continuous use can establish a prima facie showing, but permissive use destroys the necessary element of adversity. Although they (PVHA) can't show 20 years of continuous use, consider also these (among other) facts which don't support adverse use:

- Permission was initially granted to use the Dugway Road, and on several occasions PVHA riders have stopped by the cabin either before or at the time of the spring cattle drive and asked if we would open the Dugway gate;
- During at least two-thirds of all cattle drives, even when the Dugway gate had been opened for them, our yard gate was locked, thus making it necessary to drive cattle to the west and around our yard;
- Except for possibly a year or two, we have always locked the Dugway gate after we have let the fall cattle drive come through and before the deer season began;
- One PVHA member asked for a key to the Dugway gate several years ago, but the request was denied.
- Even when the Dugway gate wasn't locked, we always kept our chain and padlock hanging on the steel-rod post so that everyone would know that passage was restricted; incidentally, we also built the Dugway gate.

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• Except for two disturbing 1991 incidents which I will relate shortly, I defy the PVHA to show even the slightest action on their part, or any single incident, that would indicate any manner of adverse use of our Dugway Road by the PVHA.

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At about this time in 1991, our surveyor, with his vehicle, was setting up equipment about 50 feet south of the Dugway gate when two Mexican herders on horses came up the road from the south. The surveyor didn't understand Spanish; anyway, they spurred their horses and nearly knocked him down as they pushed by. No problem, except that the two riders complained to their boss (evidently a PVHA member), who in turn registered his displeasure--and it got back to me. Obviously, I resented the priority stance taken against our property.

The other incident occurred after deer season when someone's cow was up in Rock Canyon. Whoever moved the animal took it upon himself to break the hinges on the Dugway gate so that he could use the Dugway Road. Perhaps there may have been some justification for breaking the gate in his own mind, but he seemed to feel no responsibility to repair the damage, which required taking welding equipment to the site and paying welder's wages to repair the damage. Had the details of this last incident been fully known to me on June 17, the PVHA would have found the Dugway gate padlocked and the road barricaded.

I have the feeling that some of the recent trouble is due to a changing membership of the PVHA. For years, I knew almost everyone; now I know just a few. I sense that the cattle drives are a partial-day "whoop and holler" affair, with everyone taking off afterwards as soon as possible without picking up the pieces or doing any odd jobs that need attending. Maybe I am wrong.

At any rate, considering the entire situation, unless the PVHA wants to be more accommodating, less selfish, and more willing to consider factors other than the narrow convenience of its own members, it may well be necessary to bring the matter of the Dugway Road and gate to a showdown this year.

Very truly yours,



Glen E. Fuller